

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0603
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2010-572

12 **TIMOTHY LEE BOYER**
13 P.O. Box 1
Wynona, OK 74084
14 Registered Nurse License No. 647230

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about October 29, 2004, the Board issued Registered Nurse License Number
22 647230 to Timothy Lee Boyer ("Respondent"). Respondent's registered nurse license was in full
23 force and effect at all times relevant to the charges brought herein and expired on January 31,
24 2010.

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee for any reason provided in Article 3 (commencing with
28 section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

6. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

7. Code section 490, subdivision (a), states:

In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160 . . .

///

1 9. Penal Code section 11160, subdivision (d), states, in pertinent part:

2 For the purposes of this section, "assaultive or abusive conduct" shall
3 include any of the following offenses:

4

(20) Lewd and lascivious acts with a child, in violation of Section 288.

6

7 (22) Sexual penetration, in violation of Section 289 . . .

8 **COST RECOVERY**

9 10. Code section 125.3 provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 **CAUSE FOR DISCIPLINE**

14 **(Criminal Conviction: Sexual Abuse of a Minor)**

15 11. Respondent is subject to disciplinary action pursuant to Code sections 2761,
16 subdivision (f), and 490, subdivision (a), in that on or about October 5, 2009, in the criminal
17 proceeding titled *State of Oklahoma v. Timothy Lee Boyer* (Dist. Ct. Tulsa County, 2009, Case
18 No. CF-2009-3303), Respondent pled guilty to three counts of violating 21 O.S. 843.5 (sexual
19 abuse of a minor child, a felony), a crime substantially related to the qualifications, functions, and
20 duties of a registered nurse. Respondent was charged in the Amended Felony Information with
21 kissing his daughter, a child under the age of 18 (hereinafter "victim"), on the mouth and rubbing
22 the victim's chest with his hand (count 1; the incidents occurred between June 1, 2001, and
23 August 1, 2001), with kissing the victim on the mouth, digitally penetrating the victim's vagina,
24 having the victim touch his penis, and observing the victim's naked body (count 2; the incidents
25 occurred between August 1, 2001, and July 2, 2009), and with looking at the victim's naked body,
26 exposing himself to the victim, and rubbing her vagina with his hand (count 3; the incident
27 occurred on July 3, 2009). Respondent was sentenced to 30 years under the custody and control
28 of the Department of Corrections.

12. The circumstances of the crime are as follows: On or about July 6, 2009, Respondent came to the Tulsa County Sheriff's Office and reported that he had been molesting his daughter for approximately 8 years (Respondent's daughter was 16 at the time of the report). Respondent stated that he first molested his daughter when she was 8 years old and that the last time he molested her was on July 3, 2009. Respondent also stated that he and his daughter had done "everything, but have intercourse", and that he had molested her *over 100 times*. The victim later told the Sheriff's Department that her father began molesting her when she was 8 years old and that he had continued to molest her over the last eight years.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 647230, issued to Timothy Lee Boyer;
2. Ordering Timothy Lee Boyer to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED:

5/3710

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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